

**2013**  
**CUMULATIVE SUPPLEMENT**  
**TO**  
**MISSISSIPPI CODE**  
**1972 ANNOTATED**

**Issued September 2013**

**CONTAINING PERMANENT PUBLIC STATUTES OF MISSISSIPPI  
ENACTED THROUGH THE 2013 REGULAR SESSION  
AND 1ST AND 2ND EXTRAORDINARY SESSIONS  
OF THE LEGISLATURE**

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## **User's Guide**

In order to assist both the legal profession and the layman in obtaining the maximum benefit from the Mississippi Code of 1972 Annotated, a User's Guide has been included in the main volume. This guide contains comments and information on the many features found within the Code intended to increase the usefulness of the Code to the user.



## **PUBLISHER'S FOREWORD**

### **Statutes**

The 2013 Supplement to the Mississippi Code of 1972 Annotated reflects the statute law of Mississippi as amended by the Mississippi Legislature through the end of the 2013 Regular Session and 1st and 2nd Extraordinary Sessions.

### **Annotations**

Case annotations are included based on decisions of the State and federal courts in cases arising in Mississippi. Annotations to collateral research references are also included.

To better serve our customers by making our annotations more current, LexisNexis has changed the sources that are read to create annotations for this publication. Rather than waiting for cases to appear in printed reporters, we now read court decisions as they are released by the courts. A consequence of this more current reading of cases, as they are posted online on LexisNexis, is that the most recent cases annotated may not yet have print reporter citations. These will be provided, as they become available, through later publications.

This publication contains annotations taken from decisions of the Mississippi Supreme Court and the Court of Appeals and decisions of the appropriate federal courts. These cases will be printed in the following reporters:

- Southern Reporter, 3rd Series
- United States Supreme Court Reports
- Supreme Court Reporter
- United States Supreme Court Reports, Lawyers' Edition, 2nd Series
- Federal Reporter, 3rd Series
- Federal Supplement, 2nd Series
- Federal Rules Decisions
- Bankruptcy Reporter

Additionally, annotations have been taken from the following sources:

- American Law Reports, 6th Series
- American Law Reports, Federal 2nd
- Mississippi College Law Review
- Mississippi Law Journal

Finally, published opinions of the Attorney General and opinions of the Ethics Commission have been examined for annotations.

### **Amendment Notes**

Amendment notes detail how the new legislation affects existing sections.

### **Editor's Notes**

Editor's notes summarize subject matter and legislative history of repealed sections, provide information as to portions of legislative acts that have not been codified, or explain other pertinent information.

### **Joint Legislative Committee Notes**

Joint Legislative Committee notes explain codification decisions and corrections of Code errors made by the Mississippi Joint Legislative Committee on Compilation, Revision, and Publication of Legislation.

### **Tables**

The Statutory Tables volume adds tables showing disposition of legislative acts through the 2013 Regular Session and 1st and 2nd Extraordinary Sessions.

### **Index**

The comprehensive Index to the Mississippi Code of 1972 Annotated is replaced annually, and we welcome customer suggestions. The foreword to the Index explains our indexing principles, suggests guidelines for successful index research, and provides methods for contacting indexers.

### **Acknowledgements**

The publisher wishes to acknowledge the cooperation and assistance rendered by the Mississippi Joint Legislative Committee on Compilation, Revision, and Publication of Legislation, as well as the offices of the Attorney General and Secretary of State, in the preparation of this supplement.

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# **SCHEDULE OF NEW SECTIONS**

Added in this Supplement

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## **TITLE 17. LOCAL GOVERNMENT; PROVISIONS COMMON TO COUNTIES AND MUNICIPALITIES**

### **CHAPTER 1. Zoning, Planning and Subdivision Regulation**

#### **LIMITATIONS ON AUTHORITY TO REGULATE HOW PRIVATE EMPLOYER PAYS ITS EMPLOYEES**

SEC.

- 17-1-51. Establishing a mandatory, minimum living wage rate, minimum number of vacation or sick days that would regulate how private employer pays employees prohibited; legislative findings.
- 17-1-53. Relation to Sections 17-21-1, 17-21-5 and 17-21-7.
- 17-1-55. Construction of Sections 17-1-51 through 17-1-55.

### **CHAPTER 25. General Provisions Relating to Counties and Municipalities**

- 17-25-29. Rights of members of member-owned water association or system to attend meetings; notice.

## **TITLE 19. COUNTIES AND COUNTY OFFICERS**

### **CHAPTER 13. Contracts, Claims and Transaction of Business with Counties IN GENERAL**

- 19-13-22. Road maintenance agreements with certain taxpayers.





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# MISSISSIPPI CODE 1972

ANNOTATED

## VOLUME FIVE

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### TITLE 17

## LOCAL GOVERNMENT; PROVISIONS COMMON TO COUNTIES AND MUNICIPALITIES

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### CHAPTER 1

#### Zoning, Planning and Subdivision Regulation

Limitations on Authority to Regulate How Private Employer Pays Its Employees .....	17-1-51
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### GENERAL PROVISIONS

#### § 17-1-17. Changes.

### JUDICIAL DECISIONS

#### 2. Changes in regulations, restrictions, and boundaries.

Resident's due process rights were violated when a city's board of aldermen failed to notify him of the board meeting where it considered and denied his rezon-

ing request because the resident was not given notice of the board's meeting where his rezoning request was denied. *McKee v. City of Starkville*, 97 So. 3d 97 (Miss. Ct. App. 2012).

### LIMITATIONS ON AUTHORITY TO REGULATE HOW PRIVATE EMPLOYER PAYS ITS EMPLOYEES

SEC.	
17-1-51.	Establishing a mandatory, minimum living wage rate, minimum number of vacation or sick days that would regulate how private employer pays employees prohibited; legislative findings.
17-1-53.	Relation to Sections 17-21-1, 17-21-5 and 17-21-7.
17-1-55.	Construction of Sections 17-1-51 through 17-1-55.

**§ 17-1-51. Establishing a mandatory, minimum living wage rate, minimum number of vacation or sick days that would regulate how private employer pays employees prohibited; legislative findings.**

(1) No county, board of supervisors of a county, municipality or governing authority of a municipality is authorized to establish a mandatory, minimum living wage rate, minimum number of vacation or sick days, whether paid or unpaid, that would regulate how a private employer pays its employees. Each county, board of supervisors of a county, municipality or governing authority of a municipality shall be prohibited from establishing a mandatory, minimum living wage rate, minimum number of vacation or sick days, whether paid or unpaid, that would regulate how a private employer pays its employees.

(2) The Legislature finds that the prohibitions of subsection (1) of this section are necessary to ensure an economic climate conducive to new business development and job growth in the State of Mississippi. We believe that inconsistent application of wage and benefit laws from city to city or county to county must be avoided. While not suggesting a state minimum wage or minimum benefit package, any debate and subsequent action on these matters should be assigned to the Mississippi Legislature as provided in Section 25-3-40, and not local counties or municipalities.

(3) The Legislature further finds that wages and employee benefits comprise the most significant expense of operating a business. It also recognizes that neither potential employees or business patrons are likely to restrict themselves to employment opportunities or goods and services in any particular county or municipality. Consequently, local variations in legally required minimum wage rates or mandatory minimum number of vacation or sick leave days would threaten many businesses with a loss of employees to local governments which require a higher minimum wage rate and many other businesses with the loss of patrons to areas which allow for a lower wage rate and more or less vacation or sick days. The net effect of this situation would be detrimental to the business environment of the state and to the citizens, businesses and governments of the local jurisdictions as well as the local labor markets.

(4) The Legislature concludes from these findings that, in order for a business to remain competitive and yet attract and retain the highest possible caliber of employees, and thereby remain sound, an enterprise must work in a uniform environment with respect to minimum wage rates, and mandatory minimum number of vacation or sick leave days. The net impact of local variations in mandated wages and mandatory minimum number of vacation or sick leave days would be economically unstable and create a decline and decrease in the standard of living for the citizens of the state. Consequently, decisions regarding minimum wage, living wage and other employee benefit policies must be made by the state as provided in Section 25-3-40, so that consistency in the wage market is preserved.

**SOURCES:** Laws, 2013, ch. 445, § 1, eff from and after July 1, 2013.

**§ 17-1-53. Relation to Sections 17-21-1, 17-21-5 and 17-21-7.**

The provisions of Sections 17-1-51 through 17-1-55 shall not impede or supersede a municipality's authority granted under Sections 17-21-1, 17-21-5 and 17-21-7.

**SOURCES:** Laws, 2013, ch. 445, § 2, eff from and after July 1, 2013.

**§ 17-1-55. Construction of Sections 17-1-51 through 17-1-55.**

Sections 17-1-51 through 17-1-55 shall not be construed to limit the authority of counties and municipalities to grant tax exemptions authorized by state law.

**SOURCES:** Laws, 2013, ch. 445, § 3, eff from and after July 1, 2013.

**CHAPTER 25**

**General Provisions Relating to Counties and Municipalities**

SEC.

- 17-25-1. County boards of supervisors and municipal governing authorities authorized to allow payment of taxes, fees and other accounts receivable and payment for retail merchandise sold by county or municipality by credit card, charge card, debit card, etc. [Repealed effective July 1, 2014].
- 17-25-25. Uniform requirements for disposal of personal property belonging to county or municipality.
- 17-25-29. Rights of members of member-owned water association or system to attend meetings; notice.

**§ 17-25-1. County boards of supervisors and municipal governing authorities authorized to allow payment of taxes, fees and other accounts receivable and payment for retail merchandise sold by county or municipality by credit card, charge card, debit card, etc. [Repealed effective July 1, 2014].**

The board of supervisors of any county and the governing authorities of any municipality may allow the payment of various taxes, fees and other accounts receivable to the county or municipality, and the payment for retail merchandise sold by the county or municipality, by credit cards, charge cards, debit cards and other forms of electronic payment, in accordance with policies established by the State Auditor. Except as otherwise provided in this section, any fees or charges associated with the use of such electronic payments shall be assessed to the user of the electronic payment as an additional charge for processing the electronic payment, so that the user will pay the full cost of using the electronic payment. A county or municipality may bear the full cost



of processing such electronic payments for retail merchandise sold by the county or municipality. However, a county or municipality shall not charge the user any additional amount above the processing fee on each transaction. For purposes of this section, the term “accounts receivable” includes, but is not limited to, judgments, fines, costs and penalties imposed upon conviction for criminal and traffic offenses. This section shall stand repealed on July 1, 2014.

**SOURCES:** Laws, 2001, ch. 511, § 2; Laws, 2013, ch. 344, § 1; Laws, 2013, ch. 441, § 1, eff from and after passage (approved Mar. 25, 2013.)

**Joint Legislative Committee Note** — Section 1 of ch. 441, Laws of 2013, effective from and after passage (approved March 25, 2013), amended this section. Section 1 of ch. 344, Laws of 2013, effective July 1, 2013 (approved March 18, 2013), also amended this section. As set out above, this section reflects the language of Section 1 of ch. 344, Laws of 2013, pursuant to Section 1-3-79, which provides that whenever the same section of law is amended by different bills during the same legislative session, the amendment with the latest effective date shall supersede all other amendments to the same section taking effect on an earlier date.

**Amendment Notes** — The first 2013 amendment (ch. 344) added the last three sentences.

The second 2013 amendment (ch. 441) added “and the payment for retail merchandise sold by the county or municipality,” in the first sentence; and added the third sentence.

## **§ 17-25-25. Uniform requirements for disposal of personal property belonging to county or municipality.**

(1) **General.** — The governing authority of a county or municipality may sell or dispose of any personal property or real property belonging to the governing authority when the property has ceased to be used for public purposes or when, in the authority’s judgment, a sale thereof would promote the best interest of the governing authority. For purposes of this section, the term “personal property,” includes, but is not limited to, equipment, vehicles, fixtures, furniture, firearms and commodities.

(2) **Public sale.** — At least ten (10) days before bid opening, the governing authority shall advertise its acceptance of bids by posting notices at three (3) public places located in the county or municipality that the governing authority serves. One (1) of the three (3) notices shall be posted at the governing authority’s main office. The governing authority may designate the manner by which the bids will be received, including, but not limited to, bids sealed in an envelope, bids made electronically or bids made by any other method that promotes open competition. The proceeds of the sale shall be placed in a properly approved depository to the credit of the proper fund.

(3) **Private sale.** — Where the personal property does not exceed One Thousand Dollars (\$1,000.00) in value, the governing authority, by a unanimous approval of its members, may sell or dispose of the property at a private sale. The proceeds of the sale shall be placed in a properly approved depository to the credit of the proper fund.

(4) **Public auction.** — The governing authority of a county or municipality may sell or dispose of any surplus personal or real property at a public

auction that shall be conducted by an auctioneer or auction company that meets the standards established by the State Department of Audit and is hired by the governing authority of a county or municipality.

(5) If the governing authority finds that the fair market value of the personal property or real property is zero and this finding is entered on the minutes of the authority, then the governing authority may dispose of such property in the manner it deems appropriate and in its best interest, but no official or employee of the governing authority shall derive any personal economic benefit from such disposal.

(6) If the property may be of use or benefit to any federal agency or authority, another governing authority or state agency of the State of Mississippi, or a state agency or governing authority of another state, it may be disposed of in accordance with Section 31-7-13(m)(vi).

(7) Nothing contained in this section shall be construed to prohibit, restrict or to prescribe conditions with regard to the authority granted under Section 17-25-3.

**SOURCES:** Laws, 2012, ch. 499, § 1; Laws, 2013, ch. 364, § 1, eff from and after July 1, 2013.

**Amendment Notes** — The 2013 amendment, in (1), inserted “or real property” in the first sentence and added the last sentence; added (4) and redesignated the remaining subsections accordingly; in (5), inserted “or real property” and substituted “such property” for “the personal property”; in (6), deleted “personal” preceding “property”; and made a minor stylistic change in (2).

## **§ 17-25-29. Rights of members of member-owned water association or system to attend meetings; notice.**

In addition to the rights prescribed in Section 79-11-177, a member of a member-owned rural water association or system, incorporated under Chapter 11, Title 79, Mississippi Code of 1972, shall have the right to attend regularly scheduled board meetings of the association or system. Further, if a meeting pertains to the election of board members for the association or system, then the association or system shall provide written notice of the meeting by mail at least fifteen (15) days in advance of the meeting at which the election will occur. The written notice shall also be included on any association’s or system’s invoice or statement that is submitted to the member within thirty (30) days of the meeting.

**SOURCES:** Laws, 2013, ch. 526, § 2, eff from and after July 1, 2013.



# TITLE 19

## COUNTIES AND COUNTY OFFICERS

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#### IN GENERAL

SEC.	
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19-3-71.	Appointment of county fire services coordinator.

#### **§ 19-3-1. Districts and boundaries; election of supervisors.**

Each county shall be divided into five (5) districts, with due regard to equality of population and convenience of situation for the election of members of the boards of supervisors, but the districts as now existing shall continue until changed. The qualified electors of each district shall elect, at the next general election, and every four (4) years thereafter, in their districts one (1) member of the board of supervisors. Subject to the provisions of Section 23-15-285, the board, by a three-fifths (¾) vote of all members elected, may change the districts, the boundaries to be entered at large in the minutes of the proceedings of the board. Provided, however, that such changed boundaries shall in as far as possible conform as to natural, visible artificial boundaries, such as streets, highways, railroads, rivers, lakes, bayous or other obvious lines of demarcation, except county lines and municipal corporate limits.

If the boundaries of the districts are changed by order of the board of supervisors as provided in this section, the order shall be published in a newspaper having general circulation in the county once each week for three (3) consecutive weeks.

**SOURCES:** Codes, Hutchinson's 1848, ch. 51, art 5 (2); 1857, ch. 59, arts 1, 2; 1871, §§ 1348, 1349; 1880, §§ 2129, 2130; 1892, § 272; 1906, § 291; Hemingway's 1917, § 3663; 1930, § 195; 1942, § 2870; Laws, 1920, ch. 298; Laws, 1930, ch 41; Laws, 1932, ch. 188; Laws, 1956, ch 180; Laws, 1966, ch. 290, § 1; Laws, 1968, ch. 564, § 1; Laws, 1971, ch. 493, § 1; Laws, 1980, ch. 425, § 1; Laws, 2012, ch. 353, § 2, eff October 5, 2012 (the date the United States Attorney General interposed no objection under Section 5 of the Voting Rights Act of 1965, to the amendment of this section.)



**Editor’s Note** — By letter dated October 5, 2012, the United States Attorney General interposed no objection, under Section 5 of the Voting Rights Act of 1965, as amended and extended, to the amendment of this section by Chapter 353, Laws of 2012.

§ 19-3-71. Appointment of county fire services coordinator.

The board of supervisors in each county shall appoint a county fire services coordinator, and may compensate him from any available county funds, except insurance rebate monies from the County Volunteer Fire Department Fund. The county fire services coordinator shall demonstrate that he possesses fire-related knowledge and experience as well as meeting the guidelines established by the Commissioner of Insurance. The director of the local organization for emergency management serving the county may be the coordinator if he meets the criteria provided in this section.

**SOURCES:** Laws, 1988, ch. 584, § 1; Laws, 1989, ch. 329, § 1; Laws, 2013, ch. 403, § 1, eff from and after July 1, 2013.

**Amendment Notes** — The 2013 amendment inserted “services” and “except insurance rebate monies from the County Volunteer Fire Department Fund” in the first sentence; rewrote the second sentence; and substituted “meets the criteria provided” for “is a fire fighter as described” in the third sentence.

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§ 19-5-73. Establishment of farmers’ markets.

**SOURCES:** Codes, 1942, § 2984.5; Laws, 1948, ch. 466, §§ 1-3; Laws, 1954, ch. 147, §§ 1, 2; Laws, 1986, ch. 400, § 7; Laws, 2012, ch. 467, § 2; brought forward without change, Laws, 2013, ch. 396, § 2, eff from and after July 1, 2013.

**Editor’s Note** — This section was brought forward without change by Chapter 396, Laws of 2013, effective from and after July 1, 2013. Since the language of this section as it appears in the main volume is unaffected by the bringing forward of the section, it is not reprinted in this supplement.

**Amendment Notes** — The 2013 amendment brought the section forward without change.

**§ 19-5-93. Donations for certain patriotic and charitable uses.**

The board of supervisors of each county is authorized, in its discretion, to donate money for the objects and purposes following, to wit:

(a) **Confederate graves.** — For the location, marking, care and maintenance of the grave or graves and graveyard of Confederate soldiers or sailors who died in the Confederate service, and the purchase, if necessary, of the land on which any of the said graveyards may be situated, and the erection and maintenance of appropriate monuments and appropriate inscriptions thereon. In the exercise of this power the board is fully authorized to accept donations of land on which any of said graveyards may be situated and also money or funds to be used for any of the purposes in this section expressed.

Any board of supervisors may, in its discretion, contribute money to be used for the upkeep of graves of the Confederate dead in its county.

(b) **Care of the aged.** — For the support and maintenance of such residents of the county who are worthy, indigent aged inmates of the Old Ladies' Home of Jackson, Mississippi, or of the Golden Age Nursing Home and Hospital for North Mississippi of Greenwood, Mississippi, and not exceeding Five Hundred Dollars (\$500.00) per annum for the support of the county's inmates of the Old Men's Home, located near Jackson, Mississippi, and in addition thereto a sum not exceeding Two Hundred Dollars (\$200.00) per annum to each of said institutions for their support and maintenance in the care of the aged.

(c) **King's Daughters.** — To the King's Daughters in their respective counties for charities under their supervision.

(d) **Travelers Aid Society.** — A sum of money not exceeding Fifteen Dollars (\$15.00) per month for the support of the organization known as the Travelers Aid Society, provided the same is nonsectarian.

(e) **Hospitals for pellagra sufferers.** — For the establishment and maintenance of a hospital for the treatment of persons afflicted with pellagra. For this purpose the board may issue bonds and incur such indebtedness within the limits now authorized by law.

(f) **Tubercular hospitals.** — For the establishment and maintenance of a hospital for the care and treatment of persons suffering from tuberculosis. In the execution of this power the board may select trustees to establish and operate said hospital. In counties having a population of more than forty thousand (40,000) people, as shown by the latest United States census, the board may set aside, appropriate and expend monies from the general fund for the purpose of aiding in the maintenance and support of hospitals maintained and operated in such county for the care and treatment of persons suffering from tuberculosis. The monies shall be expended by the board through such trustees, not less than three (3) and not more than five (5), to be elected by the board of supervisors annually. The trustees shall file reports with the board at least once every six (6) months showing in detail all expenditures made by them and the number of patients which have been for

the preceding period aided or cared for by the institution, and the board may otherwise require a strict accounting of the administration of said funds.

(g) **Same — additional provisions.** — The boards of supervisors of one or more counties are hereby authorized and empowered, in their discretion, separately or jointly, to acquire by gift, purchase or lease, real estate, for tubercular hospital purposes, and to own, erect, build, establish, maintain, regulate and support a tubercular hospital and to remodel buildings on such property to be used for such hospital purposes.

In the event the boards of supervisors of two (2) or more counties agree to cooperate in establishing and maintaining such hospital, the board of supervisors of each of said counties shall adopt a resolution agreeing to the proportionate part each county will contribute to the establishment and maintaining of such hospital.

Each county operating under the provisions of this subsection is hereby authorized and empowered to set aside, appropriate and expend monies from the general fund for the purpose of erecting, maintaining and operating such hospital.

(h) **Charity wards in hospitals.** — A sum of money not exceeding One Hundred Dollars (\$100.00) per month to maintain a charity ward or wards in any hospital in their respective counties, or in the event there shall be no hospital in such county, then a like sum, in their discretion, to maintain a charity ward or wards in any hospital in any adjoining county receiving and treating patients from such county having no hospital.

(i) **Same — coast counties.** — The several counties of this state bordering on the tidewater of the Gulf of Mexico are hereby authorized and empowered, in the discretion of the proper authorities thereof, to appropriate such a sum of money as said authorities shall deem reasonable, to provide and maintain a charity ward or wards, in any of the hospitals in said counties, or, in the discretion of said authorities, to make and enter into contracts with any such hospitals for the treatment and care in such hospitals of the indigent sick of said counties, and to pay therefor out of the general fund of such counties such sum or sums as shall be a reasonable and just compensation to said hospital. However, the board of supervisors of any county mentioned herein may, in its discretion, make and enter into contracts with any hospital in any adjoining county receiving and treating patients from the respective counties mentioned herein in such hospitals of the indigent sick of said counties, mentioned herein, and to pay therefor out of the general fund of such county, such sum or sums that shall be reasonable and just to said hospitals.

(j) **Public libraries.** — A sum not to exceed One Thousand Dollars (\$1,000.00) per annum toward the support and maintenance of one or more public libraries situated in the county. In any county whose total assessed valuation, including railroads and all public utilities, is more than Eighteen Million Dollars (\$18,000,000.00) the board, in its discretion, may appropriate a sum not to exceed Three Thousand Dollars (\$3,000.00) per annum for public libraries.



The board may also give or donate any legislative journals, constitutional convention journals, printed official reports of any state or county officers, official reports of departments, bureaus or officers of the United States, and copies of the acts of the Legislature or laws of Mississippi now or hereafter in the county library of such county and not needed, in the opinion of the board in the county library (but not including any Mississippi reports and not including any acts of the Legislature or laws of the state, unless such acts or laws be more than twenty (20) years old) to any library or library association or foundation or organization maintaining a free public library for reference or otherwise, provided such library, association, foundation or organization owns free from encumbrance a fireproof library building located in this state, in which building said journals, reports, acts and laws may be and shall be deposited where received under this subsection and made accessible under reasonable regulations to the general public. Such library, association, foundation or organization shall not have the right to sell or otherwise dispose of said journals, reports, acts and laws. Said journals, reports, acts and laws may be returned to the county library from which received without expense to the county, or to the state library, without expense to the state, at any time by the library, association, foundation or organization receiving the same.

Any gift or donation made by the board of supervisors of any county under the authority of this subsection shall be evidenced by an order spread upon the minutes of said board. The county shall bear no expense in connection with any donation. The sheriff of the county, or the custodian of the county library, shall deliver to the representative of the library, association, foundation or organization entitled to receive the same any of said journals, reports, acts, laws and official publications in accordance with the directions contained in any order of the board of supervisors for the delivery of the same, and shall take proper receipt from the party receiving the same, and shall deliver such receipt to the clerk of the board of supervisors of the county, and the board of supervisors shall have the said receipt entered in full on the minutes of the board.

Any library, association, foundation or organization receiving any gift or donation from any county under this subsection shall report in writing to the board of supervisors, from which such gifts or donations have been received every two (2) years, that the gifts and donations so received are still in the possession of the donee and are accessible to the general public. If any of the gifts or donations so received have been lost, destroyed or have otherwise disappeared, report thereof shall be made.

If any library, association, foundation or organization receiving gifts or donations under this subsection shall cease operating as a free public library or shall cease to be the owner of a fireproof building in which it keeps and maintains a free public library, for reference or otherwise, the said library, association, foundation or organization shall thereupon immediately return to the county library, without expense to the county, or to the state library, without expense to the state, any gifts or donations it may have received under this subsection.

(k) **Patriotic organizations and memorials.** — A sum not to exceed Five Thousand Dollars (\$5,000.00) to build or aid any post of the American Legion, any chapter of the Daughters of the American Revolution, any chapter of the United Daughters of the Confederacy, or any post, unit or chapter of any patriotic organization within the county in building a memorial to the veterans of World War I and World War II; and a sum not to exceed Five Thousand Dollars (\$5,000.00) to aid in defraying the cost of the erection of suitable memorials to deceased soldiers, sailors and marines of the late world wars. Such appropriation may be made, even though no provision has been made therefor in the county budget.

(l) **American Red Cross.** — Any board of supervisors of any county in this state is hereby authorized and empowered, in its discretion, to donate annually, out of any monies in its respective treasury, to be drawn by warrant thereon, a sum not exceeding One Hundred Dollars (\$100.00) per million of assessed valuation to the support of a local chapter of the American Red Cross.

(m) **St. Jude Hospital.** — For the payment of mileage expense for transporting persons to St. Jude Hospital in Memphis, Tennessee, for treatment. The mileage shall be based on a round-trip basis from the patient's place of residence to St. Jude Hospital at the mileage rate set forth in Section 25-3-41.

(n) **Public museums.** — For the support and maintenance of such public museums located in the county constituted under the provisions of Chapter 9, Title 39, Mississippi Code of 1972.

(o) **Domestic violence shelters.** — The board of supervisors of any county in this state is hereby authorized and empowered, in its discretion, to donate annually out of any money in the county treasury, such sums as the board deems advisable to support any domestic violence shelter or rape crisis center operating within or serving its area. For the purposes of this section, "rape crisis center" means a place established to provide care, counseling and related services to victims of rape, attempted rape, sexual battery or attempted sexual battery.

(p) **Literacy programs.** — The board of supervisors of any county in this state is hereby authorized and empowered, in its discretion, to donate out of the general fund of the county such sum of money as the board deems reasonable to any literacy program being conducted within the county.

(q) **Care of neglected children.** — The board of supervisors of any county in this state, in its discretion, may donate annually out of any money in the county treasury such sums as the board deems advisable to support any residential group home for the abused, abandoned or neglected children which operates within or serves the county. For the purposes of this paragraph the term "residential group home" means a group residence established to provide care and counseling, and to serve as a home, for children who are the victims of abuse, neglect or abandonment.

(r) **Boys and Girls Club.** — To any chartered chapter of the Boys and Girls Clubs of America located within the county, out of any funds in the

county treasury, provided that the cumulative sum of donations to all chapters within the county does not exceed the amount generated in the county by one-fourth ( $\frac{1}{4}$ ) mill on all of the taxable property within the county, during the fiscal year in which the donations are made. Nothing in this paragraph authorizes the imposition of additional tax.

(s) **Mississippi Burn Care Fund.** — To the Mississippi Burn Care Fund, subject to the limitations specified in Section 21-19-58.

(t) **Court Appointed Special Advocates.** — To any chapter of the Court Appointed Special Advocates (CASA), out of any funds in the county treasury, provided that the cumulative sum of donations to a chapter does not exceed the amount generated in the county by one-fourth ( $\frac{1}{4}$ ) mill on all of the taxable property within the county, during the fiscal year in which the donations are made. Nothing in this paragraph authorizes the imposition of additional tax.

(u) **National Voluntary Organizations Active in Disaster (NVOAD).** — To a local chapter of NVOAD, whether in-kind contributions or out of any funds in the county treasury, provided that the cumulative sum of donations to a local NVOAD does not exceed the amount generated in the county by one-fourth ( $\frac{1}{4}$ ) mill on all of the taxable property within the county during the fiscal year in which the donations are made. Nothing in this paragraph authorizes the imposition of additional tax.

(v) **Farmers' markets.** — The board of supervisors of any county in this state, in its discretion, may donate annually out of any money in the county treasury, such sums as the board deems advisable to support any farmers' market that is certified by the Mississippi Department of Agriculture and Commerce and operating within the county, not to exceed the amount that would be generated from the levy of a one-fourth ( $\frac{1}{4}$ ) mill ad valorem tax upon all taxable property in the county.

(w) **Young Men's Christian Association (YMCA).** — To any chartered chapter of the YMCA located within the county, out of any funds in the county treasury, provided that the cumulative sum of donations to all chapters within the county does not exceed the amount generated in the county by one-fourth ( $\frac{1}{4}$ ) mill on all of the taxable property within the county, during the fiscal year in which the donations are made. Nothing in this paragraph authorizes the imposition of additional tax.

**SOURCES:** Codes, Hemingway's 1917, §§ 3798, 3810, 3811; Hemingway's 1921 Supp. § 3811c; 1930, § 290 (a-1); 1942, § 2998; Laws, 1908, ch. 134; Laws, 1916, chs. 143, 235; Laws, 1918, ch. 205; Laws, 1920, ch. 289; Laws, 1928, chs. 233, 236; Laws, 1930, chs. 33, 56, 185; Laws, 1938, ch. 299; Laws, 1956, ch. 181; Laws, 1958, ch. 212; Laws, 1962, ch. 251; Laws, 1976, ch. 373; Laws, 1983, ch. 331, § 1; Laws, 1983, ch. 502, § 8; Laws, 1986, ch. 400, § 8; Laws, 1990, ch. 318, § 1; Laws, 1990, ch. 539, § 2; Laws, 1995, ch. 358, § 1; Laws, 2009, ch. 415, § 2; Laws, 2011, ch. 461, § 2; Laws, 2012, ch. 467, § 3; Laws, 2013, ch. 396, § 1, eff from and after July 1, 2013.

**Amendment Notes** — The 2013 amendment substituted "Five Thousand Dollars (\$5,000.00)" for "One Thousand Dollars (\$1,000.00)" preceding "to aid in defraying the cost of the erection" in (k); and added (w).



WATER, SEWER, GARBAGE DISPOSAL, AND FIRE PROTECTION  
DISTRICTS

**§ 19-5-167. Board of commissioners; appointment; terms; general powers and duties.**

**JUDICIAL DECISIONS**

**1. In general.**

Circuit court properly interpreted Miss. Code Ann. § 19-5-167 in determining a county board of supervisors possessed the responsibility to determine whether ap-

pellant removed himself from the district of his appointment as a commissioner of a county water district. *Lamey v. Bd. of Supervisors*, 46 So. 3d 878 (Miss. Ct. App. 2010).

**§ 19-5-171. Board of commissioners; eligibility; bond; oath; compensation.**

**JUDICIAL DECISIONS**

**1. In general.**

Substantial evidence supported a factual determination by a county board of supervisors that appellant no longer possessed the qualifications to continue as a commissioner of a county water district

because appellant no longer resided in the district, as required by Miss. Code Ann. § 19-5-171(1); thus, a vacancy existed. *Lamey v. Bd. of Supervisors*, 46 So. 3d 878 (Miss. Ct. App. 2010).

**§ 19-5-177. Additional powers of districts.**

**JUDICIAL DECISIONS**

**2. Extension of services beyond boundaries of district.**

Although appellant argued he had not removed himself from a district because he lived within the one-mile zone authorized by Miss. Code Ann. § 19-5-177(k) and received water services from the county water district, a circuit court prop-

erly determined appellant had vacated his office as commissioner of the county water district by moving out of the county because § 19-5-177(k) authorized the district to extend its services, not its legal boundaries. *Lamey v. Bd. of Supervisors*, 46 So. 3d 878 (Miss. Ct. App. 2010).

ENHANCED WIRELESS EMERGENCY TELEPHONE SERVICE (E-911)

SEC.

19-5-343.

Collection and remittance of prepaid wireless E911 charges; no liability for provider or seller of prepaid wireless telecommunications service.



**§ 19-5-343. Collection and remittance of prepaid wireless E911 charges; no liability for provider or seller of prepaid wireless telecommunications service.**

**[Until July 1, 2014, this section shall read as follows:]**

(1) **Definitions.** — For purposes of this section, the following terms shall have the following meanings:

(a) “Consumer” means a person who purchases prepaid wireless telecommunications service in a retail transaction.

(b) “Department” means the Mississippi Department of Revenue.

(c) “Prepaid wireless E911 charge” means the charge that is required to be collected by a seller from a consumer in the amount established under subsection (2).

(d) “Prepaid wireless telecommunications service” means a wireless telecommunications service that allows a caller to dial 911 to access the 911 system, which service must be paid for in advance and is sold in predetermined units or dollars of which the number declines with use in a known amount.

(e) “Provider” means a person who provides prepaid wireless telecommunications service pursuant to a license issued by the Federal Communications Commission.

(f) “Retail transaction” means the purchase of prepaid wireless telecommunications service from a seller for any purpose other than resale.

(g) “Seller” means a person who sells prepaid wireless telecommunications service to another person.

(h) “Wireless telecommunications service” means commercial mobile radio service as defined by Section 20.3 of Title 47 of the Code of Federal Regulations, as amended.

(2) **Collection and remittance of E911 charge.** — (a) Amount of Charge. The prepaid wireless E911 charge shall be One Dollar (\$1.00) per retail transaction.

(b) Collection of charge. The prepaid wireless E911 charge shall be collected by the seller from the consumer with respect to each retail transaction occurring in this state. The amount of the prepaid wireless E911 charge shall be either separately stated on an invoice, receipt or other similar document that is provided to the consumer by the seller, or otherwise disclosed to the consumer.

(c) Application of charge. For purposes of paragraph (b) of this subsection, a retail transaction that is effected in person by a consumer at a business location of the seller shall be treated as occurring in this state if that business location is in this state, and any other retail transaction shall be treated as occurring in this state if the retail transaction is treated as occurring in this state for purposes of Section 27-65-19(1)(e)(v)3.c.

(d) Liability for charge. The prepaid wireless E911 charge is the liability of the consumer and not of the seller or of any provider, except that the seller shall be liable to remit all prepaid wireless E911 charges that the

seller collects from consumers as provided in subsection (3), including all such charges that the seller is deemed to have collected where the amount of the charge has not been separately stated on an invoice, receipt, or other similar document provided to the consumer by the seller.

(e) Exclusion of E911 charge from base of other taxes and fees. The amount of the prepaid wireless E911 charge that is collected by a seller from a consumer, whether or not such amount is separately stated on an invoice, receipt or other similar document provided to the consumer by the seller, shall not be included in the base for measuring any tax, fee, surcharge or other charge that is imposed by this state, any political subdivision of this state or any intergovernmental agency.

(f) Resetting of charge. The prepaid wireless E911 charge shall be increased or reduced, as applicable, upon any change to the state E911 charge on postpaid wireless telecommunications service under Section 19-5-333. Such increase or reduction shall be effective on the effective date of the change to the postpaid charge or, if later, the first day of the first calendar month to occur at least sixty (60) days after the enactment of the change to the postpaid charge. The department shall provide not less than thirty (30) days of advance notice of such increase or reduction on the commission's Web site.

(3) **Administration of E911 charge.** — (a) Time and manner of payment. Prepaid wireless E911 charges collected by sellers shall be remitted to the department at the times and in the manner provided by Chapter 65 of Title 27 with respect to sales and use taxes. The department shall establish registration and payment procedures that substantially coincide with the registration and payment procedures that apply to Chapter 65 of Title 27.

(b) Seller administrative deduction. A seller shall be permitted to deduct and retain two percent (2%) of prepaid wireless E911 charges that are collected by the seller from consumers.

(c) Audit and appeal procedures. The audit and appeal procedures applicable to Chapter 65 of Title 27 shall apply to prepaid wireless E911 charges.

(d) Exemption documentation. The department shall establish procedures by which a seller of prepaid wireless telecommunications service may document that a sale is not a retail transaction, which procedures shall substantially coincide with the procedures for documenting sale for resale transactions for sales and use tax purposes under Chapter 65 of Title 27.

(e) Disposition of remitted charges. The department shall pay all remitted prepaid wireless E911 charges over to the Commercial Mobile Radio Service Emergency Telephone Services Board within thirty (30) days of receipt, for use by the board in accordance with the purposes permitted by Section 19-5-333, after deducting an amount, not to exceed two percent (2%) of collected charges, that shall be retained by the department to reimburse its direct costs of administering the collection and remittance of prepaid wireless E911 charges. The amount of the distribution shall be determined by dividing the population of the communications district by the state

population, and then multiplying that quotient times the total revenues remitted to the department after deducting the amount authorized in this subsection.

(4) **No Liability.** — (a) No liability regarding 911 service. No provider or seller of prepaid wireless telecommunications service shall be liable for damages to any person resulting from or incurred in connection with the provision of, or failure to provide, 911 or E911 service, or for identifying, or failing to identify, the telephone number, address, location or name associated with any person or device that is accessing or attempting to access 911 or E911 service.

(b) No provider of prepaid wireless service shall be liable for damages to any person or entity resulting from or incurred in connection with the provider's provision of assistance to any investigative or law enforcement officer of the United States, this or any other state, or any political subdivision of this or any other state, in connection with any investigation or other law enforcement activity by such law enforcement officer that the provider believes in good faith to be lawful.

(c) Incorporation of postpaid 911 liability protection. In addition to the protection from liability provided by paragraphs (a) and (b) of this subsection, each provider and seller shall be entitled to the further protection from liability, if any, that is provided to providers and sellers of wireless telecommunications service that is not prepaid wireless telecommunications service pursuant to Section 19-5-361.

(5) **Exclusivity of prepaid wireless E911 charge.** — The prepaid wireless E911 charge imposed by this section shall be the only E911 governmental funding obligation imposed with respect to prepaid wireless telecommunications service in this state, and no tax, fee, surcharge or other charge shall be imposed by this state, any political subdivision of this state, or any intergovernmental agency, for E911 funding purposes, upon any provider, seller or consumer with respect to the sale, purchase, use or provision of prepaid wireless telecommunications service.

(6) Notwithstanding any other method or formula of collection and/or distribution of the emergency telephone service charges as specified in this section and as such collection and/or distribution method or formula is specified in this section, a provider may collect and distribute the said charges in any other manner applicable to satisfy the intent and requirements of this section.

**[From and after July 1, 2014, this section shall read as follows:]**

(1) **Definitions.** — For purposes of this section, the following terms shall have the following meanings:

(a) "Consumer" means a person who purchases prepaid wireless telecommunications service in a retail transaction.

(b) "Department" means the Mississippi Department of Revenue.

(c) "Prepaid wireless E911 charge" means the charge that is required to be collected by a seller from a consumer in the amount established under subsection (2).



(d) "Prepaid wireless telecommunications service" means a wireless telecommunications service that allows a caller to dial 911 to access the 911 system, which service must be paid for in advance and is sold in predetermined units or dollars of which the number declines with use in a known amount.

(e) "Provider" means a person who provides prepaid wireless telecommunications service pursuant to a license issued by the Federal Communications Commission.

(f) "Retail transaction" means the purchase of prepaid wireless telecommunications service from a seller for any purpose other than resale.

(g) "Seller" means a person who sells prepaid wireless telecommunications service to another person.

(h) "Wireless telecommunications service" means commercial mobile radio service as defined by Section 20.3 of Title 47 of the Code of Federal Regulations, as amended.

**(2) Collection and remittance of E911 charge.** — (a) Amount of Charge. The prepaid wireless E911 charge shall be One Dollar (\$1.00) per retail transaction.

(b) Collection of charge. The prepaid wireless E911 charge shall be collected by the seller from the consumer with respect to each retail transaction occurring in this state. The amount of the prepaid wireless E911 charge shall be either separately stated on an invoice, receipt or other similar document that is provided to the consumer by the seller, or otherwise disclosed to the consumer.

(c) Application of charge. For purposes of paragraph (b) of this subsection, a retail transaction that is effected in person by a consumer at a business location of the seller shall be treated as occurring in this state if that business location is in this state, and any other retail transaction shall be treated as occurring in this state if the retail transaction is treated as occurring in this state for purposes of Section 27-65-19(1)(d)(v)3.c.

(d) Liability for charge. The prepaid wireless E911 charge is the liability of the consumer and not of the seller or of any provider, except that the seller shall be liable to remit all prepaid wireless E911 charges that the seller collects from consumers as provided in subsection (3), including all such charges that the seller is deemed to have collected where the amount of the charge has not been separately stated on an invoice, receipt, or other similar document provided to the consumer by the seller.

(e) Exclusion of E911 charge from base of other taxes and fees. The amount of the prepaid wireless E911 charge that is collected by a seller from a consumer, whether or not such amount is separately stated on an invoice, receipt or other similar document provided to the consumer by the seller, shall not be included in the base for measuring any tax, fee, surcharge or other charge that is imposed by this state, any political subdivision of this state or any intergovernmental agency.

(f) Resetting of charge. The prepaid wireless E911 charge shall be increased or reduced, as applicable, upon any change to the state E911

charge on postpaid wireless telecommunications service under Section 19-5-333. Such increase or reduction shall be effective on the effective date of the change to the postpaid charge or, if later, the first day of the first calendar month to occur at least sixty (60) days after the enactment of the change to the postpaid charge. The department shall provide not less than thirty (30) days of advance notice of such increase or reduction on the commission's website.

(3) **Administration of E911 charge.** — (a) Time and manner of payment. Prepaid wireless E911 charges collected by sellers shall be remitted to the department at the times and in the manner provided by Chapter 65 of Title 27 with respect to sales and use taxes. The department shall establish registration and payment procedures that substantially coincide with the registration and payment procedures that apply to Chapter 65 of Title 27.

(b) Seller administrative deduction. A seller shall be permitted to deduct and retain two percent (2%) of prepaid wireless E911 charges that are collected by the seller from consumers.

(c) Audit and appeal procedures. The audit and appeal procedures applicable to Chapter 65 of Title 27 shall apply to prepaid wireless E911 charges.

(d) Exemption documentation. The department shall establish procedures by which a seller of prepaid wireless telecommunications service may document that a sale is not a retail transaction, which procedures shall substantially coincide with the procedures for documenting sale for resale transactions for sales and use tax purposes under Chapter 65 of Title 27.

(e) Disposition of remitted charges. The department shall pay all remitted prepaid wireless E911 charges over to the Commercial Mobile Radio Service Emergency Telephone Services Board within thirty (30) days of receipt, for use by the board in accordance with the purposes permitted by Section 19-5-333, after deducting an amount, not to exceed two percent (2%) of collected charges, that shall be retained by the department to reimburse its direct costs of administering the collection and remittance of prepaid wireless E911 charges. The amount of the distribution shall be determined by dividing the population of the communications district by the state population, and then multiplying that quotient times the total revenues remitted to the department after deducting the amount authorized in this subsection.

(4) **No Liability.** — (a) No liability regarding 911 service. No provider or seller of prepaid wireless telecommunications service shall be liable for damages to any person resulting from or incurred in connection with the provision of, or failure to provide, 911 or E911 service, or for identifying, or failing to identify, the telephone number, address, location or name associated with any person or device that is accessing or attempting to access 911 or E911 service.

(b) No provider of prepaid wireless service shall be liable for damages to any person or entity resulting from or incurred in connection with the provider's provision of assistance to any investigative or law enforcement

officer of the United States, this or any other state, or any political subdivision of this or any other state, in connection with any investigation or other law enforcement activity by such law enforcement officer that the provider believes in good faith to be lawful.

(c) Incorporation of postpaid 911 liability protection. In addition to the protection from liability provided by paragraphs (a) and (b) of this subsection, each provider and seller shall be entitled to the further protection from liability, if any, that is provided to providers and sellers of wireless telecommunications service that is not prepaid wireless telecommunications service pursuant to Section 19-5-361.

(5) **Exclusivity of prepaid wireless E911 charge.** — The prepaid wireless E911 charge imposed by this section shall be the only E911 governmental funding obligation imposed with respect to prepaid wireless telecommunications service in this state, and no tax, fee, surcharge or other charge shall be imposed by this state, any political subdivision of this state, or any intergovernmental agency, for E911 funding purposes, upon any provider, seller or consumer with respect to the sale, purchase, use or provision of prepaid wireless telecommunications service.

(6) Notwithstanding any other method or formula of collection and/or distribution of the emergency telephone service charges as specified in this section and as such collection and/or distribution method or formula is specified in this section, a provider may collect and distribute the said charges in any other manner applicable to satisfy the intent and requirements of this section.

**SOURCES:** Laws, 2010, ch. 560, § 13; Laws, 2013, ch. 537, § 5, *eff from and after July 1, 2014.*

**Editor's Note** — Laws of 2013, ch. 537, § 6, effective from and after July 1, 2014, provides:

“SECTION 6. Nothing in this act shall affect or defeat any claim, assessment, appeal, suit, right or cause of action for taxes due or accrued under the sales tax laws before the date on which this act becomes effective, whether such claims, assessments, appeals, suits or actions have been begun before the date on which this act becomes effective or are begun thereafter; and the provisions of the sales tax laws are expressly continued in full force, effect and operation for the purpose of the assessment, collection and enrollment of liens for any taxes due or accrued and the execution of any warrant under such laws before the date on which this act becomes effective, and for the imposition of any penalties, forfeitures or claims for failure to comply with such laws.”

**Amendment Notes** — The 2013 amendment substituted “27-65-19(1)(d)(v)3.c” for “27-65-19(1)(e)(v)3.c” in (2)(c).

## EMERGENCY TELECOMMUNICATIONS; BOARD; STANDARDS AND TRAINING; BASIC AND ENHANCED 911

SEC.

19-5-353.

Certification requirement for telecommunicators; minimum standards of training; suspension, cancellation, or recall of certificate; reprimands; notice, hearing and appeal; reapplication; penalties for employment of



telecommunicator not duly qualified; other training not precluded [Repealed effective July 1, 2016].

19-5-357.

Telephone subscriber service charge to fund training; collection of charge; special fund; use of monies in fund; training expenses [Repealed effective July 1, 2016].

**§ 19-5-353. Certification requirement for telecommunicators; minimum standards of training; suspension, cancellation, or recall of certificate; reprimands; notice, hearing and appeal; reapplication; penalties for employment of telecommunicator not duly qualified; other training not precluded [Repealed effective July 1, 2016].**

(1) The initial minimum standard of training for local public safety and 911 telecommunicators shall be determined by the Board of Emergency Telecommunications Standards and Training. All courses approved for minimum standards shall be taught by instructors certified by the course originator as instructors for such courses.

(2) The minimum standards may be changed at any time by the Board of Emergency Telecommunications Standards and Training.

(3) Changes in the minimum standards may be made upon request from any bona fide public safety, emergency medical or fire organization operating within the State of Mississippi. Requests for change shall be in writing submitted to either the State Law Enforcement Training Academy; the State Fire Academy; the Mississippi Chapter of the Associated Public Safety Communications Officers, Incorporated; the Mississippi Chapter of the National Emergency Number Association; the Mississippi State Board of Health, Emergency Medical Services Division; the Mississippi Justice Information Center; the Mississippi Sheriff's Association; the Mississippi Fire Chief's Association; the Mississippi Association of Chiefs of Police; or Mississippians for Emergency Medical Service.

(4) The minimum standards in no way are intended to restrict or limit any additional training which any department or agency may wish to employ, or any state or federal required training, but to serve as a basis or foundation for basic training.

(5) Persons in the employment of any public safety, fire, 911 PSAP or emergency medical agency as a telecommunicator on July 1, 1993, shall have three (3) years to be certified in the minimum standards courses provided they have been employed by such agency for a period of more than one (1) year prior to July 1, 1993.

(6) Persons having been employed by any public safety, fire, 911 PSAP or emergency medical agency as a telecommunicator for less than one (1) year prior to July 1, 1993, shall be required to have completed all the requirements for minimum training standards, as set forth in Sections 19-5-351 through 19-5-361, within one (1) year from July 1, 1993. Persons certified on or before July 1, 1993, in any course or courses chosen shall be given credit for these courses, provided the courses are still current and such persons can provide a course completion certificate.



(7) Any person hired to perform the duties of a telecommunicator in any public safety, fire, 911 PSAP or emergency medical agency after July 1, 1993, shall complete the minimum training standards as set forth in Sections 19-5-351 through 19-5-361 within twelve (12) months of their employment or within twelve (12) months from the date that the Board of Emergency Telecommunications Standards and Training shall become operational.

(8) Professional certificates remain the property of the board, and the board reserves the right to either reprimand the holder of a certificate, suspend a certificate upon conditions imposed by the board, or cancel and recall any certificate when:

- (a) The certificate was issued by administrative error;
- (b) The certificate was obtained through misrepresentation or fraud;
- (c) The holder has been convicted of any crime involving moral turpitude;
- (d) The holder has been convicted of a felony; or
- (e) Other due cause as determined by the board.

When the board believes there is a reasonable basis for either the reprimand, suspension, cancellation of, or recalling the certification of a telecommunicator, notice and opportunity for a hearing shall be provided. Any telecommunicator aggrieved by the findings and order of the board may file an appeal with the chancery court of the county in which such person is employed from the final order of the board. Any telecommunicator whose certification has been cancelled pursuant to Sections 19-5-351 through 19-5-361 may reapply for certification but not sooner than two (2) years after the date on which the order of the board canceling such certification became final.

(9) Any state agency, political subdivision or “for-profit” ambulance, security or fire service company that employs a person as a telecommunicator who does not meet the requirements of Sections 19-5-351 through 19-5-361, or that employs a person whose certificate has been suspended or revoked under provisions of Sections 19-5-351 through 19-5-361, is prohibited from paying the salary of such person, and any person violating this subsection shall be personally liable for making such payment.

(10) These minimum standards and time limitations shall in no way conflict with other state and federal training as may be required to comply with established laws or regulations.

(11) This section shall stand repealed on July 1, 2016.

**SOURCES:** Laws, 1993, ch. 536, § 8; Laws, 2001, ch. 490, § 1; Laws, 2003, ch. 374, § 1; reenacted and amended, Laws, 2004, ch. 442, § 1; Laws, 2006, ch. 355, § 1; Laws, 2010, ch. 325, § 1; Laws, 2013, ch. 404, § 1, eff from and after July 1, 2013.

**Editor’s Note** — The effective date provision in Laws of 2013, ch. 404 was numbered as § 2 in error. The number should be § 3.

**Amendment Notes** — The 2013 amendment extended the repealer provision in (11) from “July 1, 2013” to “July 1, 2016.”

**§ 19-5-357. Telephone subscriber service charge to fund training; collection of charge; special fund; use of monies in fund; training expenses [Repealed effective July 1, 2016].**

(1) From and after July 1, 1993, a service charge of Five Cents (5¢) shall be placed on each subscriber service line within the State of Mississippi. This service charge shall apply equally to both private and business lines and shall apply to all service suppliers operating within the State of Mississippi. This subscriber service charge level shall be reviewed periodically to determine if the service charge level is adequate or excessive, and adjustments may be made accordingly.

(2) Every billed service user shall be liable for any service charge imposed under this section until it has been paid to the service supplier. The duty of the service supplier to collect any such service charge shall commence upon the date of its implementation. Any such minimum standards telephone service charge shall be added to, and may be stated separately in, the billing by the service supplier to the service user.

(3) The service supplier shall have no obligation to take any legal action to enforce the collection of any emergency telephone service charge. However, the service supplier shall annually provide the Board of Emergency Telecommunications Standards and Training with a list of the amount uncollected, together with the names and addresses of those service users who carry a balance that can be determined by the service supplier to be nonpayment of such service charge. The service charge shall be collected at the same time as the tariff rate in accordance with the regular billing practice of the service supplier. Good faith compliance by the service supplier with this provision shall constitute a complete defense to any legal action which may result from the service supplier's determination of nonpayment and/or the identification of service users in connection therewith.

(4) The amounts collected by the service supplier attributable to the minimum standards telephone service charge shall be deposited monthly into a special fund hereby created in the State Treasury. The amount of service charge collected each month by the service supplier shall be remitted to the special fund no later than sixty (60) days after the close of the month. A return, in such form as prescribed by the Department of Revenue, shall be filed with the Department of Revenue, together with a remittance of the amount of service charge collected payable to the special fund. The service supplier shall maintain records of the amount of service charge collected for a period of at least three (3) years from date of collection. From the gross receipts to be remitted to the special fund, the service supplier shall be entitled to retain as an administrative fee, an amount equal to one percent (1%) thereof. This service charge is a state fee and is not subject to any sales, use, franchise, income, excise or any other tax, fee or assessment, and shall not be considered revenue of the service supplier for any purpose. All administrative provisions of the Mississippi Sales Tax Law, including those which fix damages, penalties and interest for nonpayment of taxes and for noncompliance with the provi-

sions of such chapter, and all other duties and requirements imposed upon taxpayers, shall apply to all persons liable for fees under the provisions of this chapter, and the Commissioner of Revenue shall exercise all the power and authority and perform all the duties with respect to taxpayers under this chapter as are provided in the Mississippi Sales Tax Law except where there is a conflict, then the provisions of this chapter shall control.

(5) The proceeds generated by the minimum standards service charge shall primarily be used by the board pursuant to legislative appropriation to fund the minimum standards training program for public safety telecommunicators within the State of Mississippi. These funds shall be applied on a first-come first-served basis, which shall be determined by the date of application. All city, county and state public safety telecommunicators, including those employed by city and/or county supported ambulance services and districts, shall be eligible to receive these funds to meet minimum standards training requirements. No "for-profit" ambulance, security or fire service company operating in the private sector shall be qualified to receive these minimum standards training funds unless the company is on contract with a local government to provide primary emergency response. Law enforcement officers, fire and emergency medical personnel who are used as part-time or "fill-in" telecommunicators shall also be eligible to receive funding for this minimum standards training, provided they serve at least eight (8) hours per month as a telecommunicator. However, emergency medical personnel who are used as part-time or "fill-in" telecommunicators and are employed by any for-profit ambulance company operating in the private sector shall be eligible to receive funding for the minimum standards training, provided they serve at least twenty (20) hours per week as a telecommunicator. These funds may also be expended by the Board of Emergency Telecommunications Standards and Training to administer the minimum standards program for such things as personnel, office equipment, computer software, supplies and other necessary expenses.

(6) The Board of Emergency Telecommunications Standards and Training shall be authorized to reimburse any public safety agency or emergency medical service for meals, lodging, travel, course fees and salary during the time spent training, upon successful completion of such course. Funds may also be expended to train certain individuals to become certified instructors of the various courses included in these minimum standards in order to conduct training within the State of Mississippi.

(7) If the proceeds generated by the minimum standards service charge exceed the amount of monies necessary to fund the service, the Board of Emergency Telecommunications Standards and Training may authorize such excess funds to be available for advanced training, upgraded training and recertification of instructors. Any funds remaining at the close of any fiscal year shall not lapse into the State General Fund but shall be carried over to the next fiscal year to be used as a beginning balance for the fiscal requirements of such year.

(8) This section shall stand repealed on July 1, 2016.



**SOURCES:** Laws, 1993, ch. 536, § 10; Laws, 1998, ch. 458, § 3; Laws, 2001, ch. 490, § 2; Laws, 2003, ch. 374, § 2; reenacted and amended, Laws, 2004, ch. 442, § 2; Laws, 2006, ch. 355, § 2; Laws, 2010, ch. 325, § 2; Laws, 2013, ch. 404, § 2, eff from and after July 1, 2013.

**Editor's Note** — The effective date provision in Laws of 2013, ch. 404 was numbered as § 2 in error. The number should be § 3.

**Amendment Notes** — The 2013 amendment substituted "Department of Revenue" for "State Tax Commission" and "Tax Commission" in the third sentence and "Commissioner of Revenue" for "Tax Commissioner" in the seventh sentence in (4); extended the repealer provision in (8), from "July 1, 2013" to "July 1, 2016."

## CHAPTER 7

### Property and Facilities

SEC.

19-7-5. Disposal of personal property.

#### § 19-7-5. Disposal of personal property.

The board of supervisors shall have the power to sell and dispose of any personal property and real property belonging to the county or any subdivision thereof according to the uniform personal property and real property disposal requirements for local governments in Section 17-25-25. For purposes of this section, the term "personal property," includes, but is not limited to, equipment, vehicles, fixtures, furniture, firearms and commodities.

Nothing contained in this section shall be construed to prohibit, restrict or to prescribe conditions with regard to the authority granted under Section 17-25-3.

**SOURCES:** Codes, 1942, § 2925; Laws, 1932, ch. 189; Laws, 1936, ch. 286; Laws, 1942, ch. 193; Laws, 2000, ch. 593, § 1; Laws, 2003, ch. 483, § 3; Laws, 2012, ch. 499, § 2; Laws, 2013, ch. 364, § 2, eff from and after July 1, 2013.

**Amendment Notes** — The 2013 amendment in the first paragraph, inserted "and real property" twice following "personal property" in the first sentence, and added the second sentence.

## CHAPTER 13

### Contracts, Claims and Transaction of Business with Counties

In General ..... 19-13-1

#### IN GENERAL

SEC.

19-13-22. Road maintenance agreements with certain taxpayers.

§ 19-13-22. Road maintenance agreements with certain taxpayers.

A county may, by resolution spread upon its minutes, enter into a road maintenance agreement with a taxpayer that is eligible for the reduced severance tax levied pursuant to Section 27-25-503(1)(c) or 27-25-703(1)(b).

SOURCES: Laws, 2013, ch. 533, § 7, eff from and after July 1, 2013.

CHAPTER 25

Sheriffs

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ATTORNEY GENERAL OPINIONS

A sheriff has the authority, if he determines it reasonable and necessary, to exclude openly carried firearms from courthouse premises. Lance, June 13, 2013, 2013 Miss. AG LEXIS 111.

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